

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3
4 LAVERN CHARLES FASTHORSE,

Case No. 2:19-cv-01441-JAD-VCF

5 Petitioner

**Order Dismissing Action and Denying
Certificate of Appealability**

6 v.

7 STATE OF NEVADA, et al.,

ECF No. 1

8 Respondents

9 Petitioner Lavern Charles Fasthorse brings this petition for writ of habeas corpus under
10 28 U.S.C. § 2241 to challenge a state-court conviction.¹ But this matter was not properly
11 commenced because the petitioner failed to pay the required \$5 filing fee or an application to
12 proceed *in forma pauperis*.² So, I dismiss this case without prejudice to Fasthorse's ability to
13 promptly file a new action³ with either the filing fee or a fully completed application to proceed
14 *in forma pauperis*.

15 IT THEREFORE IS ORDERED that **this action is DISMISSED** without prejudice to the
16 filing of a new petition in a new action in the manner described above.

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19 ¹ ECF No. 1-1. Petitioner is challenging his custody upon a state-court judgment of conviction,
20 so the action should proceed under 28 U.S.C. § 2254. Additionally, petitioner has named the
incorrect respondent because the warden of the prison is the correct respondent.

21 ² See 28 U.S.C. § 1915(a)(2); Local Rule LSR 1-1 and 1-2. In another action filed earlier this
22 year, *Fasthorse v. Howell*, 2:19-cv-00511-APG-PAL, the court told Fasthorse the same thing, yet
he still has not followed instructions.

23 ³ I have preliminarily reviewed the timeliness of this action. If Fasthorse promptly commences a
new habeas corpus action with all the required documents or payment of the filing fee, then it
will be timely.

1 IT FURTHER IS ORDERED that a certificate of appealability is **DENIED** because the
2 court finds that jurists of reason would not find this dismissal of an improperly commenced
3 action without prejudice to be debatable or incorrect.

4 IT FURTHER IS ORDERED **that the Clerk is directed to SEND** the petitioner two
5 copies each of an application form to proceed in forma pauperis for incarcerated persons and a
6 noncapital Section 2254 habeas petition form, one copy of the instructions for each form, and a
7 copy of the papers that he submitted in this action, ENTER JUDGMENT accordingly and
8 CLOSE THIS CASE.

9 Dated: September 23, 2019.

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U.S. District Judge Jennifer A. Dorsey